

CITY OF MUSKEGON
ZONING BOARD OF APPEALS
REGULAR MEETING
MINUTES

September 9, 2003

Chairman S. Schiller called the meeting to order at 4:02 p.m., and roll was taken.

MEMBERS PRESENT: C. Kufta, S. Schiller, R. Hilt, E. Fordham, R. Schweifler, D. Newsome, J. Clingman-Scott

MEMBERS ABSENT: None.

STAFF PRESENT: D. Steenhagen, H. Griffith, B. Lazor, C. Brubaker-Clarke

OTHERS PRESENT: S. Eilers, 2260 Beidler; A. Medema, 1972 Harrison.

APPROVAL OF MINUTES

A motion that the minutes of the regular meeting of August 12, 2003 be approved, was made by R. Hilt, supported by R. Schweifler and unanimously approved.

D. Newsome arrived at 4:03 p.m.

PUBLIC HEARINGS

Hearing, Case 2003-22: Variance request to allow a second accessory structure at 2260 Beidler St., by Scott M. Eilers. B. Lazor presented the staff report. The subject property is located at the end of Beidler St., where it dead-ends, south of Hackley Ave. The property contains a residence. The subject property contains one accessory structure – a playhouse, with a sandbox beneath. The zoning ordinance only permits one accessory structure per property. The only case in which the ordinance permits 2 accessory structures is if one is a detached garage. The applicant would like to build a shed on his property in order to store his lawnmower and other various items. Since the playhouse is already existing on the property, a second accessory structure is not permitted. Staff has one phone calls from Ms. Dress of 2238 Henry. She was opposed to the request stating that the owner doesn't maintain his property.

J. Clingman-Scott asked about the placement of the home on the property in regards to the supplied pictures. R. Schweifler explained it to her. S. Eilers explained his need for the variance. He went over some of the findings of fact. He also stated that he does maintain his property. R. Schweifler stated that he had been by the home a couple of times. He agrees that the property is maintained. R. Hilt asked if the applicant had built the playhouse. S. Eilers stated that he had.

A motion to close the public hearing was made by R. Schweifler, supported by R. Hilt and

unanimously approved.

R. Schweifler stated that it was obvious that the current accessory structure is a child's playhouse. The structure is on stilts and has a sandbox below it. The likelihood of someone taking a lawnmower or a snowblower in or out of the playhouse would be unlikely. It is obvious that this would only be used for recreational purposes. He would be in support of the variance. J. Clingman-Scott asked if the garage was a single stall. S. Eilers stated that it was. E. Fordham stated that he would agree with R. Schweifler. He added that the garage isn't big enough to store items in and the applicant can't store the items in the playhouse. He is in support of the variance. D. Newsome agreed with the applicant's response to the fifth finding of fact in regards to helping with the blight fight. He is in support of the variance. S. Schiller suggested adding a condition that should the playhouse be torn down, the applicant couldn't build a different one since the variance would be for a second accessory structure.

The following findings of fact were offered: There are exceptional or extraordinary circumstances or conditions applying to the property in question or to the intended use of the property that do not apply generally to other properties or class of uses in the same zoning district because the property is the last residence on a dead end street and it is bordered on 2 sides by commercial properties. The dimensional variance is necessary for the preservation and enjoyment of a substantial property right possessed by other properties in the same zoning district and in the vicinity because the applicant is limited in storage options due to his lot size. The authorizing of such dimensional variance will not be of substantial detriment to adjacent property and will not materially impair the purposes of this chapter or the public interest because the proposed location of the shed wouldn't be visible from the street. The alleged difficulty is caused by the Ordinance and has not been created by any person presently having an interest in the property, or by any previous owner because the zoning ordinance sees children's playhouses as an accessory structure. The applicant has also outgrown his garage and is in need of extra storage space in order to store his useful items out of sight. The alleged difficulty is not founded solely upon the opportunity to make the property more profitable or to reduce expense to the owner because there is an expense in building a shed. The requested variance is the minimum action required to eliminate the difficulty because the ordinance allows for 1 accessory structure, the applicant needs 2 of them.

A motion that the findings of fact determined by the Zoning Board of Appeals be adopted and that the variance to allow a second accessory structure at 2260 Beidler St., be approved, based on the findings of fact, with the following conditions: 1) The variance is recorded with the deed to keep record of it in the future. 2) That the addition to the property must be complete within one year or the variance is void. 3) Should the original accessory structure be removed or altered, it would not be allowed to be rebuilt or remain, was made by R. Schweifler, supported by R. Hilt and unanimously approved.

Hearing; Case 2003-23: Variance request to reduce the rear setback requirement to 8 feet for a deck addition at 1972 Harrison Ave., by Revitalization, LLC. (Annette Medema).

Hearing; Case 2003-24: Variance request to reduce the setback requirement for a shed and to allow it to be closer than 6 feet to the principal structure at 1972 Harrison Ave., by

Revitalization, LLC (Annette Medema). B. Lazor presented the staff report. The property is located on Harrison Ave., between Mann and Moon Streets. The property overlooks the parking area for the Booker Institute of Cosmetology and contains a residence. Around the beginning of August the Zoning Inspector observed a deck being constructed on the subject property. He contacted the Building Inspector who put a “Stop Work” order on the deck. The applicant is working with the Inspections Department to obtain a permit for the deck. The Zoning Ordinance requires a 30-foot rear setback in residential districts. Since this deck is over 2 feet above grade, it is required to meet the same setbacks as the principal structure (house). The subject property is a small lot – with the deck in place there is only an 8-foot rear setback. The property has quite a steep drop-off to the rear. This is the reason that the deck is built so high. From the Harrison Ave. side the main floor is at street level. From the rear, it actually is more of a 2nd story since there is a walkout basement, which opens up at ground level at the bottom of the slope. The applicant would also like to place a shed on the property as well, at the end of the driveway. The distance between the house and the side property line is 12 feet. The shed is 8 feet wide, which only leaves 4 feet. The ordinance requires 6 feet between accessory and principal structures as well as a 3-foot setback between accessory structures and the side property line (total of 9 feet plus the 8-foot shed equals 17 feet and there is only 12 feet of room). Setbacks are measured to the drip edge of structures. It appears from the photo of the proposed shed provided that the shed does have a small overhang. It is unclear as to whether the 8-foot dimension for the width is measured across the front of the shed or from drip-edge to drip-edge. There may be less than 4 feet left if the drip edge is not figured into the width dimension. There is not enough room for the shed to meet the 6-foot separation from the home. The shed could meet the 3-foot side setback requirement but then would only be 1 foot or less away from the home. It would be more practical to have a larger separation than that in order for the applicant to be able to access this side of her home for maintenance purposes. Staff has not received any phone calls or letters regarding this case.

C. Kufta arrived at 4:19 p.m.

S. Schiller asked if there would be an issue with fire codes should the shed be placed closely to the home. D. Steenhagen stated that she had spoken with the fire marshal and there were no problems with it. J. Clingman-Scott asked if the deck was new or if it replaced a previous deck. R. Schweifler stated it was replacing what was there and increasing the size. E. Fordham stated that this was the smallest lot he has ever seen. There is no room for a garage on the lot. He understands the need for the shed. There are some things that could be stored in the shed to make the property presentable. A. Medema stated that cosmetically, the end of the driveway was the best spot for the shed. Currently she is storing her snowblower in the basement during the summer and in the winter, her lawnmower will be stored there. S. Schiller asked why a permit for the deck hadn't been obtained prior to the building of it. A. Medema stated that originally the home was a rental property. They decided to put siding up on the house. She and her husband had discussed a deck. She pulled the permit for the siding and put it in the window. Her husband had thought she pulled the permit for the deck as well as the siding. It was a case of miscommunication. She then went and applied for the deck permit. R. Hilt asked if the shed would be in the driveway, causing a vehicle to be parked closer to the road. A. Medema stated that they would level the area at the end of the driveway and place the shed there. They would

lose no portion of the driveway due to the shed. She explained the placement to the members using a picture of the home.

A motion to close the public hearing was made by J. Clingman-Scott, supported by R. Schweifler and unanimously approved.

S. Schiller stated that they would discuss the deck first. R. Hilt stated that the house dates before the zoning laws went into effect. The owner knew this wasn't a buildable lot when they purchased the property. He didn't feel that the deck looked appropriate from Lakeshore Dr. He stated that the fourth finding of fact wasn't proven since they should have known that the property wasn't buildable. R. Schweifler felt that all the findings of fact were appropriate for approval of the variance. He also stated that the ZBA is not in the business of judging aesthetics. E. Fordham stated with the property not being buildable, he felt it should be looked at as to how to make the situation livable. C. Kufta asked if the deck was 12 ft. x 12 ft. A. Medema stated that it was. J. Clingman-Scott stated it looked as though the property to the rear of this had expanded their parking lot into the alley. She felt that the applicant's backyard is a mitigating circumstance and she is in support of the variance.

The following findings of fact were offered: There are exceptional or extraordinary circumstances or conditions applying to the property in question or to the intended use of the property that do not apply generally to other properties or class of uses in the same zoning district because the property size is 66 ft. wide and 49 ft. deep. There is a slope that begins at the front of the house on the property. The applicant can't use their property for recreational purposes due to the slope being so extensive. The dimensional variance is necessary for the preservation and enjoyment of a substantial property right possessed by other properties in the same zoning district and in the vicinity because they have no front or side yards since the house sits on the sidewalk in the front. The lot size is also below the minimum requirement for a buildable lot. The authorizing of such dimensional variance will not be of substantial detriment to adjacent property and will not materially impair the purposes of this chapter or the public interest because the deck is off the back slider and overlooks a parking lot. It sits 8.5 ft. away from a fence and overlooks the parking lot. It isn't encroaching on either of the neighbors. The alleged difficulty is caused by the Ordinance and has not been created by any person presently having an interest in the property, or by any previous owner because the City ordinance assumes that the property would be a standard buildable lot. The ordinance doesn't take into consideration smaller lots. The alleged difficulty is not founded solely upon the opportunity to make the property more profitable or to reduce expense to the owner because the applicant would like to enjoy their property in the way that others are able to do with theirs. The requested variance is the minimum action required to eliminate the difficulty because the owner has no control over their lot size or the slope of the property.

A motion that the findings of fact determined by the Zoning Board of Appeals be adopted and that the variance to reduce the rear setback to 8 feet for a deck addition at 1972 Harrison Ave., be approved, based on the findings of fact, with the following conditions: 1) The variance is recorded with the deed to keep record of it in the future. 2) That the addition to the property must be complete within one year or the variance is void, was made by R. Schweifler, supported by E. Fordham and was approved with R. Hilt voting nay and C. Kufta abstaining.

J. Clingman-Scott asked if the 8-ft. x 8-ft. shed would line up with the driveway and extend beyond with the distance from the house being 3 ft. A. Medema showed a picture of the home and described that the shed would be 1 ft. from the house, 8 ft. for the driveway (shed would line up exactly with the driveway), and there would be 3 ft. from the shed to the right hand side of the property line (facing the home). She thought the shed would look best being placed even with the end of the driveway. R. Schweifler asked what the exterior of the shed would look like. A. Medema stated that she would like to place the same siding that is on the house on it so it would match cosmetically with the house.

A motion that the findings of fact determined by the Zoning Board of Appeals be adopted and that the variance to reduce the setback requirements and allow a shed to be closer than 6 feet to the principal structure at 1972 Harrison Ave., be approved, based on the findings of fact, with the following conditions: 1) The variance is recorded with the deed to keep record of it in the future. 2) That the addition to the property must be complete within one year or the variance is void. 3) The shed would match the look of the home, was made by R. Schweifler, supported by E. Fordham and was approved with C. Kufta abstaining.

OTHER

Bylaws – S. Schiller asked the commission members if they had any comments on the bylaws that had been supplied to them at the last meeting. C. Kufta felt that the time limit of 3 minutes for someone to speak may not be enough time for them to get all the information out. S. Schiller agreed. R. Schweifler suggested changing the time to 5 minutes. S. Schiller felt the applicant should get the longer amount of time to speak. He suggested 10 minutes with the rest of the individuals speaking on the case being limited to 3 minutes. E. Fordham asked who would be responsible to keep the time. D. Steenhagen stated that usually it is the chair or even staff could do it. C. Kufta asked if Roberts Rules of order were referenced in the bylaws. D. Steenhagen stated that they were.

A motion to approve the bylaws for the ZBA with the addition that the applicant would be allowed 10 minutes to address the board, was made by J. Clingman-Scott, supported by R. Schweifler and unanimously approved.

Corner Lots – R. Schweifler asked staff to look at describing corner lots in reference to placement of fences. D. Steenhagen stated that this had already been done. There is also a diagram in the zoning ordinance. R. Schweifler asked if there was any way that the Zoning Administrator could look at corner lots and approve or deny them instead of the owners having to go before the ZBA for a variance. This way, if the owner doesn't like the Zoning Administrator's decision, then they would have the option of applying for the variance. D. Steenhagen stated that she didn't have a problem with doing further research on the idea. She would like to get input from the City Attorney.

There being no further business, the meeting was adjourned at 5:00 p.m.

hmg
9/9/03